



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 2] नई दिल्ली, शुक्रवार, फरवरी 03, 2017/ माघ 14, 1938 (शक)
No. 2] NEW DELHI, FRIDAY, FEBRUARY 03, 2017/MAGHA 14, 1938 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 3rd February, 2017:—

I

BILL NO. LVI OF 2016

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In the Constitution, for article 109, the following shall be substituted, namely:—

"109 (1) A Money Bill may be introduced in either House of Parliament.

(2) After a Money Bill has been passed by the House of the People, it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations, and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States.

(3) If the House of the People accepts any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Council of States and accepted by the House of the People.

(4) If the House of the People does not accept any of the recommendations of the Council of States, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the House of the People without any of the amendments recommended by the Council of States.

Amendment of article 109. Special procedure in respect of Money Bills.

(5) If a Money Bill passed by the House of the People and transmitted to the Council of States for its recommendations is not returned to the House of the People within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the House of the People.

(6) After a Money Bill has been passed by the Council of States, it shall be transmitted to the House of the People for its consideration.

(7) The House of the People shall follow the same procedure laid down for considering the Bill referred to in clause (6) like any other Bill passed by the Council of States and transmitted to it.

(8) The procedure laid down under the clauses (2), (3), (4) and (5) shall be followed in respect of Money Bills introduced in the House of People; and

(9) The procedure laid down under clauses (6) and (7) shall be followed in respect of the Money Bills introduced in the Council of States.

Amendment
of article 117.

3. In article 117 of the Constitution, in clause (1), the words "and a Bill making such provision shall not be introduced in the Council of States" shall be omitted

Amendment
of article 198.

4. In the Constitution, for article 198, the following shall be substituted, namely:—

Special
procedure in
respect of
Money Bills.

"198 (1). A Money Bill may be introduced in either House of Legislature of a State which has a Legislative Council.

(2) After a Money Bill has been passed by Legislative Assembly of a State having a Legislative Council it shall be transmitted to the Legislative Council for its recommendations and the Legislative Council shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the Legislative Assembly with its recommendations and the Legislative Assembly may thereupon either accept or reject all or any, of the recommendations of the Legislative Council.

(3) If the Legislative Assembly accepts any of the recommendations of the Legislative Council Money Bill shall be deemed to have been passed by both Houses with the amendments recommended by the Legislative Council and accepted by the Legislative Assembly.

(4) If the Legislative Assembly does not accept any of the recommendations of the Legislative Council, the Money Bill shall be deemed to have been passed by both Houses in the form in which it was passed by the Legislative Assembly without any of the amendments recommended by the Legislative Council.

(5) If a Money Bill passed by the Legislative Assembly and transmitted to the Legislative Council for its recommendations is not returned to the Legislative Assembly within the said period of fourteen days, it shall be deemed to have been passed by both Houses at the expiration of the said period in the form in which it was passed by the Legislative Assembly.

(6) After a Money Bill has been passed by the Legislative Council, it shall be transmitted to the Legislative Assembly for its consideration.

(7) The Legislative Assembly shall follow the same procedure laid down for considering the Bill referred to in clause (6) like any other Bill passed by the Legislative Council and transmitted to it.

(8) The procedure laid down under the clauses (2), (3), (4) and (5) shall be followed in respect of Money Bills introduced in the Legislative Assembly; and

(9) The procedure laid down under clauses (6) and (7) shall be followed in respect of the Money Bills introduced in the Legislative Council.

Amendment
of article 207.

5. In article 207 of the Constitution, in clause (1), the words "and a Bill making such provision shall not be introduced in Legislative Council shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The founders of our Indian Constitution have thought that only the federal form of Government with bicameral legislature is suitable for a vast country like India to sustain its unique feature of "**Unity in Diversity**". The Constitution has mandated to form a "Council of States" *i.e.*, a House elected by the elected members of Assemblies of the States and union territories, along with a directly elected House of People to represent the parliamentary democracy. Though the Union Council of Ministers are collectively responsible only to the House of the People and the House of the People solely enjoys the matters relating to certain financial matters, the Council of States had also played a constructive and effective role in our federal set up. The performance of Council of States in the legislative field and in influencing the policies of the government has been quite significant. The Rajya Sabha, the Upper House of Parliament, has efficiently served its Constitutional mandate and preserved its dignity and prestige.

However, Article 109 and Article 117 of the Constitution prohibit the introduction of Money Bills and certain Financial Bills in the Council of States. The decision on these Bills is totally vested with the House of People and Council of States cannot make amendments to the above Bills but only it can recommend amendments and finally accepting or rejecting the recommendations of Council of States rests with House of People only. Introduction and final decision on the Money Bill are two different things and mere allowing introduction of Bills will not have any effect either on the responsibility or on the authority of the House. But denying even introduction of Money Bills in the Upper House is not understandable and it is prohibiting the Members of the Council of States to put forth his/her ideas in the matters of Money Bills, thus infringing their rights guaranteed under articles 14 and 19(1) of the Constitution. Even permitting the introduction of Money Bills in the Upper House will not hamper the basic principles of Constitution as the House of the People is the ultimate authority to take a decision on the Money Bills as mandated by the Constitution. Sometimes, a situation may arise that a party in power in a certain State, may not have representation in House of People, and in such situation its representative in the Council of States may want to bring to the notice of the government about some issues involving financial liability on the Union Government, through a Private Member Bill. But not allowing him/her to introduce such Bills by terming them as Money Bills/ Financial Bills hampers the interest of the State.

Similarly Article 198 and Article 207 of the Constitution prohibit the introduction of Money Bills and certain Financial Bills in the Legislative Council of the States, wherever they exist. This is infringing the rights of Members of Legislative Councils.

Allowing the introduction of Money Bills/ Financial Bills in the Council of States/ Legislative Councils does not alter the basic features of the Constitution. Therefore, with due respects to constitutional mandate of specific responsibility given to House of People and Legislative Assemblies, this Bill proposes to sustain the dignity of the Upper House of Parliament as well as Legislative Councils of the States by permitting the Money Bills/ Financial Bills to be introduced in them.

Hence, the Bill.

DR. K. V. P. RAMACHANDRA RAO

II

BILL NO. LVIII OF 2016

A Bill further to amend the Clinical Establishments (Registration and Regulation) Act, 2010.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

Short title and commencement. **1.** (1) This Act may be called the Clinical Establishments (Registration and Regulation) Amendment Act, 2016.

(2) It shall come into force at once.

Amendment of section 12. **2.** In the Clinical Establishments (Registration and Regulation) Act, 2010, (hereinafter called the principal Act), after sub-section (2) of Section 12, the following sub-sections shall be inserted, namely:— 23 of 2010.

(3) The clinical establishment shall undertake that any individual, who comes or is brought to them in emergency medical condition or otherwise shall not be subjected to unnecessary diagnostic tests and shall only confine to the diagnostic tests as may be required for assessing the clinical condition of the individual.

(4) The clinical establishment shall undertake that the medical doctors or practitioners or professionals or specialists working under its control shall prescribe generic medicines to the extent of availability and shall not compel the patients or their attendants to use branded medicines, leaving option for the patient and their attendants to choose the medicines of their choice and shall not advocate efficacy of the branded medicines over the generic medicines.

(5) The clinical establishment shall not charge more than the rates prescribed by Central Government under sub-section (3) of section 13 this Act for various diagnostic tests or procedures or surgeries or treatments based on classification and standards of clinical establishments as prescribed by Central Government.

(6) The clinical establishment shall display a notice board at prominent place in its premises about the concessions, subsidies, incentives, land at concessional rate, medical equipment obtained by exemption of various taxes or any other benefit it obtained from the Central Government, or the State Government or the Union Territory or any local body, as the case may be, for information to the public.

(7) The clinical establishments, which have availed concessions or benefits from the Central Government, or State Government or the Union Territory or any local body, as the case may be subject to certain conditions shall display the conditions on a notice board at prominent place in their premises along with the status of compliance of those conditions, which shall be updated on a monthly basis.

(8) The clinical establishments which offer medical examination or treatment in intensive care units or emergency wards, shall design the intensive care units or emergency wards, in such a way that the outer wall of one of its side shall be fitted with transparent glass, closed with cloth curtains to enable the attendants of the patient to see the patients, as and when deemed necessary.

(9) The clinical establishments shall brief, atleast two times in a day, the attendants of the patients being treated in intensive care units or emergency wards about the condition of the patient and treatment being extended and shall also video record each briefing and shall preserve it for a period of ninety days from the date of discharge of the patient from intensive care units or emergency wards or date of death of the patient during treatment in such clinical establishment, whichever is later.

3. In the principal Act, after sub-section (2) of section 13, the following sub-sections shall be inserted, namely:—

Amendment
of section 13.

(3) The Central Government shall prescribe maximum rates for various diagnostic tests or procedures or surgeries or treatments extended by clinical establishments based on their classification and standards prescribed by it under sub-sections (1) and (2):

Provided that in prescribing the maximum rates for the diagnostic tests or procedures or surgeries or treatments offered by clinical establishments, the Central Government shall have regard to the local conditions.

4. In the principal Act, after clause (k) of sub-section (2) of section 52, the following clause shall be inserted, namely:—

Amendment
of section 52.

"(kk) the maximum rates for the diagnostic tests or procedures or surgeries or treatments offered by clinical establishments under sub-section (3) of section 13;"

5. In the principal Act, after sub-section (1) of section 56, the following sub-section shall be inserted, namely:—

Amendment
of section 56.

(1A) The States, having enactments specified in the Schedule, may are revisit their enactments in the public interest and revise their enactments to make them more comprehensive by including the provisions of the Clinical Establishments (Registration and Regulation) Act, 2010, as amended from time to time, to improve the public health within a period of six months from the date of enactment of this Act.

STATEMENT OF OBJECTS AND REASONS

The Clinical Establishments (Registration and Regulation) Act, 2010 was enacted to provide for the registration and regulation of the clinical establishments with a view to prescribe minimum standards of facilities and services which may be provided by them so that the mandate of article 47 of Constitution of India for improvement in public health may be achieved.

2. This act was enacted in the year 2010. Certain Rules to operationalise the Act were also issued. However, there is wide-spread commotion and unrest in the public that certain clinical establishments are (i) subjecting the patients to unnecessary and unwanted diagnostic tests and threatening the patients of dire medical consequences if they do not undergo the tests prescribed to them, (ii) charging the patients with exorbitant prices for the diagnostic tests and treatments (iii) prescribing expensive branded medicines ignoring availability of generic medicines, (iv) totally keeping the attendants in dark about the condition of the patient being treated and the treatment extended in the intensive care units and emergency wards and (v) not complying with the conditions imposed by governments after getting concessions and relaxations from the Government.

3. In this context there is a definite need of evolving a proper procedure/ mechanism to streamline these clinical establishments and forcing them to adopt a uniform procedure in charging for diagnostic tests, doctor fees, charges for medical facilities offered by them. There shall be proper check on these clinical establishments and bills charged by them so that they cannot exploit the common people approaching them for treatment of various diseases apart from compelling them to use expensive branded medicines. There are instances wherein these clinical establishments are charging the CGHS/Health Card/ Insurance Patients to the extent of their maximum eligibility by compelling them to undergo various tests, treatments, which may not be necessary for their recovery. The proposed Bill addresses the above concerns to a certain extent.

Hence this Bill.

MOHD.ALI KHAN

III

BILL NO. II OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2017.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 366 of the Constitution, after clause (5), the following clause shall be inserted, namely:—

Amendment
of article
366.

'(5A) "consultation" means the action or process of formally consulting or discussing with another in a merely consultative, advisory and non-binding manner.'

STATEMENT OF OBJECTS AND REASONS

Certain terms in the Constitution are not defined leading to leeway in interpretation causing substantial questions of law. Such ambiguity in the law has contributed to the question regarding the appointment of judges to the higher judiciary in India. It is for this reason that the term "consultation" requires to be defined in the Constitution by way of amendment of article 366 that defines certain terms used in the Constitution. Such definition will not only remove ambiguity in the definition of the term, but restore the constitutional scheme in the appointment of judges to higher judiciary by restoring the role of the Executive Branch in the appointment process of judges and reaffirming the primacy of Parliament in the domain of legislation in the nation that has been weakened by judicial overreach in the domain of judicial appointments.

The term "consultation" appears in a number of articles in the Constitution, mainly in articles 124 and its analogous article 217 and articles 127 and 222. Herein the matters under question allow for the consultation of other parties by the President of India or the Governor of the State, as the case may be, in the discharge of his duties. The President and Governor are bound by the opinions of others as delivered explicitly by the Constitution under article 103(2) and its analogous article 192(2).

Articles 103(2) and its analogous article 192(2) incorporate the wording "the President (Governor) shall obtain the opinion of the Election Commission and shall act according to such opinion". Hence indicating the intent of the framers of the Constitution to bind the President and the Governor's actions to the advice they have received on the matter detailed in the relevant articles. While exercising the powers under the articles 103(2) and 192(2), the President and the Governor respectively are not required to act on the aid and advice of the respective Council of Ministers.

Article 124 and its analogous article 217 and articles 127, 143, 146(1) and 222 of the Constitution utilise the word "consultation", hence indicating that the framers of the Constitution did not have the intention to bind the President and the Governor's actions to the advice they have received on the matter detailed in the relevant articles. They sought only to ensure that the President or Governor appropriately consulted the relevant authorities or institutions in discharging their duties, therefore undertaking the action to the best of their knowledge, even allowing them to disregard the recommendations received during the consultation process. This is essential as it ensures that the highest executive functionary of the nation and states, respectively, has flexibility in the discharge of duties of his office, while ensuring that he received sound non-binding guidance on matters of constitutional and national importance and ensuring that all stakeholders were represented in the consultation process. The term "consultation" mentioned in the Constitution should be given the same meaning homogeneously throughout the Constitution and different meaning cannot be assigned for different provisions of the Constitution.

The judicial pronouncements with regard to article 124 made the recommendations binding upon the President which is not in keeping with the constitutional scheme. Similar judicial pronouncements can alter the meaning of other articles of the Constitution, risking the constitutional fabric and framework of the nation. Similar arguments can be utilised with respect to article 143, making the court's recommendations to the President binding on questions of law, not allowing the President to exercise his authority with the flexibility accorded to him and disturbing the constitutional scheme. Similarly under article 146(1), the recommendations of the Union Public Service Commission may be made binding upon the President for the appointment of officers and servants to the Supreme Court and analogously for the State, hence going against the constitutional scheme.

As detailed above, there is a requirement for defining the term "consultation" to ensure that the constitutional scheme is not disturbed due to ambiguity of the definition

of the term. This will also ensure that the principle of separation of powers, while not enumerated in the Constitution, but upon which it is based, will be maintained. This will also ensure that the appointment process for higher judiciary in the nation is maintained and kept in sync with the constitutional scheme and constitutional text as envisioned by the framers of the Constitution. The need for the same has been elaborated upon below.

The Judges of the Supreme Court are appointed under clause (2) of article 124 of the Constitution and the Judges of the High Courts are appointed under clause (1) of article 217 of the Constitution, by the President of India. The Ad-hoc-Judges and retired Judges of the Supreme Court are appointed under clause (1) of article 127 and article 128 of the Constitution respectively. The appointment of Additional Judges and Acting Judges for the High Court is made under article 224 and the appointment of retired Judges for sittings of the High Courts is made under article 224A of the Constitution. The transfer of Judges from one High Court to another High Court is made by the President of India after consultation with the Chief Justice of India under clause (1) of article 222 of the Constitution.

The Supreme Court in the matter of the Supreme Court Advocates-on-Record Association vs. Union of India in the year 1993, and in its Advisory Opinion given in the year 1998 in the Third Judges' case on a reference being made to the Supreme Court by the then President of India under his constitutional powers, had interpreted clause (2) of article 124 and clause (1) of article 217 of the Constitution with respect to the meaning of "consultation" as "concurrence". Consequently, a Memorandum of Procedure for appointment of Judges to the Supreme Court and High Courts was formulated known as the "collegium system", and is presently being followed for such appointments. Pertinently, the said collegium system does not find mention either in the original Constitution or in any successive amendments thereto. This was in direct contravention of the Court's earlier decision in the matter. In the case of S.P. Gupta (December 30, 1981) also known as the "First Judges Case", it declared that the "primacy" of the recommendations of the Chief Justice of India to the President can be refused for cogent reasons. This had brought a paradigm shift in favour of the executive having primacy over the judiciary in judicial appointments for the next twelve years before the Supreme Court overturned this in the Second and Third Judges' case.

In a democratic set up, the legitimacy of every constitutional institution including the supreme judicial authority must be traced to the will and consent of the people, directly or indirectly. The bearers to public offices in all other institutions in the country are appointed either by an executive authority that is accountable to the people or by a mechanism involving the executive and legislature by law. No institution in a democracy is entitled under the constitutional provisions to assure itself any power of appointing its own successors. An unelected institution, however exalted, appointing its own peers and successors is smeared with the questions regarding democratic accountability. Since the pronouncements made by the judges have a strong and deep impact on the public at large, it is necessary that the judicial appointments are not made unilaterally by the incumbents of the said institutions. Transparency and objectivity in appointment of judges of the Supreme Court and the High Courts is also *sine qua non*, to ensure the credibility of the judiciary and the will of the people.

It is important to protect the credibility of the judiciary, an institution held in high regard by the citizens of India and the other organs of the State. This credibility must not be tarnished and a credible and respected Supreme Court alone can safeguard the Constitution and the nation and effectively reconcile justice, constitution, law, harmony and the public good. Any supposed unconstitutional usurpation of power by any constituent of democracy will only go to adversely affect the entire democratic set up. Any apprehension or suspicion that any input by the executive and/or legislature would deconstruct the independence of judiciary and the attempts to completely exclude

the executive and/or legislature from the process of appointing judges would be wholly illogical and inconsistent with the foundations of the theory of democracy and a doctrinal heresy.

For achieving the goals as set out above, for ensuring the continued credibility and independence of judiciary and for reinforcing the faith of general public in the judicial set up, the proposed Bill seeks to restore the Constitutional scheme as established by the text of the constitution and not by judicial usurpation of constitutional amendment, while also defining the key term of "consultation" within the Constitution, removing ambiguity while subsequently eliminating substantial question of law regarding the term.

Hence this Bill.

SUKHENDU SEKHAR ROY

IV**BILL NO. LII OF 2016**

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2016.

Short title,
extent and
commencement.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1951.

2. For section 29B of the Representation of the People Act, 1951 (hereinafter referred to as the Principal Act), the following section shall be substituted namely:—

Substitution of
new section for
section 29B.

Political party to be funded by appropriate authority.

"29B. (1) Every political party shall be funded only by the Central government in consultation with the State Governments.

(2) The quantum of funding for cash political party shall be decided by the Central Government in consultation with the State Government as may be prescribed taking into account the vote share of each party in the cost concluded general election to the Lok Sabha or the concerned State Legislative Assembly as the case may be.

(3) No political party shall be eligible to accept any contribution in any form from any person or company."

Omission of section 29C.

3. Section 29C of the principal Act shall be omitted.

Omission of section 77.

4. Section 77 of the principal Act shall be omitted.

Amendment of section 126.

5. In section 126 of the principal Act, the sub-section (1), the following be substituted, namely:—

"126.(1) No person shall—

(a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or

(b) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the members of the public thereto,

Insertion of new sections 126C and 126D.

6. After section 126B of the principal Act, the following sections shall be inserted, namely:—

"126C. (1) No person shall publish or broadcast the results of an opinion poll in any polling area during the period of twenty-four hours ending with the hour fixed for the conclusion of the poll for any election in the polling area.

(2) No broadcast of opinion polls shall be done without providing the following information together with the results,—

(a) the name of sponsor of the survey;

(b) the name of the person or the organisation that concluded the survey;

(c) the date on which or the period during which the survey was conducted;

(d) the population from which the sample of respondents was drawn;

(e) the margin error with respect to the data obtained; and

(f) the number of people who participated in the survey.

Explanation—For the purposes of this section, "opinion poll" means a survey of how electors shall vote at an election or of the preferences of electors towards any candidate, group of candidates, or political party.

Offences committed by companies.

126D. Where an offence under 126C has been committed by a company, every person who at the time the offence was committed, was in charge the company shall be deemed to be guilty of the offence and shall be liable to be punished with imprisonment for a term which may extend to two years, or with fine, or both.

Insertion of new section 127B.

7. After section 127A of the principal Act, the following sections shall be inserted, namely:—

127B. (1) No person shall publish or broadcast any paid news.

Restriction for publication of opinion poll.

(2) Any person who is found guilty of publishing paid news, or receiving payment for news shall be punished with imprisonment for a term which may extend upto three years and with fine, which may extend upto twenty-five lakh rupees.

(3) No court shall take cognizance of any offence punishable under this Section unless there is a complaint made by order of, or under authority from the Election Commission of India or the Chief Electoral Officer of the State concerned.

(4) All political advertisements in any media shall carry a disclosure in such form and manner to be notified by the Election Commission of India.

(5) Whoever contravenes the provision of sub-section (4) of section 127B shall be punished with imprisonment for a term which may extend upto six months or fine which may extend upto five lakh rupees or with both.

Explanation—For the purpose of this section, "Paid news" means news items sponsored by an individual/group of individuals without any basis of true facts for furthering their political motives.

8. After section 170 of the following section shall be inserted, namely:—

Insertion of new section 171.

"171. (1) With effect from such date, as the Central government may, by notification, appoint, there shall be constituted, for the purpose of this Act, an authority, to be known as the "Election Commission Auditing Authority" consisting of three retired Supreme Court judges nominated by the Central Government in consultation with the President of India.

Authority to audit the Election Commission of India.

(2) The salary and allowances payable to, and other terms and conditions of service of the retired Supreme Court judge shall be such as may be prescribed.

(3) The Authority may appoint such number of officer and staff as it consider necessary for discharge of its functions under this Act.

(4) the salary, allowances and terms of conditions of service of officers and staff of authority shall be such as may be prescribed.

(5) The authority shall have the powers to audit the actions taken by the Election Commission as may be prescribed.

(6) the authority shall submit a report on any excesses committed by the Election Commission of India, to the President of India, as may be prescribed.

(7) The President of India may taken action pertaining to excesses committed by Election Commission of India or receipt of the report from the authority.

(8) The Central Government, shall from time to time provide, after due appropriation made by the Parliament by law in this behalf, requisite funds for the functioning of the authority.

STATEMENT OF OBJECTS AND REASONS

The elections in the country form the cornerstone of democracy, conducting of free and fair elections is pertinent to India's democratic framework. Given the fact, India is the largest democracy in the world; its electoral system is bounded by its unique set of political and institutional problems. With the increasing number of electorates and diverse party structures, a robust nature of Indian democracy can be further enhanced by introducing certain electoral reforms.

With the growing use of excessive money in election campaign, followed by money and muscle politics, this Bill aims to introduce or insert concepts like State Funding of Elections. Thus, in order to ensure just and free and fair election, the present bill seeks to amend section 29B of representation of the People Act, 1951 (RPA) 1. Introduction of the concept of state funding envisages to prescribe a fixed budget for central and assembly elections, respectively All the parties and individual candidates would be given financial support as per their earlier performance in the elections.

At present under section 126 A of RPA exit polls are banned in India. Followed by section 126B, which restricts conducting of opinion polls forty eight hours prior to the election. These restrictions are to enable holding free and fair elections, bereft of any external influence on the voters. Similar is the case with political advertisements in electronic media. However, these restrictions are in contradiction with right to free speech and right to know. Given the growing upsurge in social media, it has become a major platform for more political advocacy and advertisements, which is currently not regulated under any act. In the light of more inclusive and participatory approach to democratic framework, the section aims to ban existing restrictions on opinion polls and political advertisement prior to forty eight hours before the elections. Conduct and publication of opinion polls should be allowed, to be followed by a given code of conduct. The Bill also prohibits publication of paid news.

Under article 324 of the constitution, chief Election Commissioner can exercise certain powers, which are not prescribed in the rules and the acts. These powers are enshrined in the Constitution to ensure free and fair conduct of election across all India In order to curb futuristic misinterpretation of powers, article 324 in RPA is to be amended to insert mechanism for accountability and transparency in the execution of power up held by Election Commission.

The above given amendments and reforms are an attempt to resolve the challenges unique to India's democratic framework. The present, bill is an endeavour to reflect the concerns and voices political parties and citizens across the country. Largely, the existing problems are seated into the political and institutional failure within the existing RPA. Thus, in the light of these above given concerns, the present Bill envisages to strengthen the transparent and participatory conduct of election in India.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 2 of the Bill makes it obligatory for the Central Government to provide requisite funds to every political party.

Clause 8 Provides for the constitution of Election Commission Auditing Authority and it further provides for the appointment of officers and staff of the Authority.

The Bill, therefore, if enacted will involve recurring expenditure from the Consolidated Fund of India to the tune of rupees five Hundred Crore per annum.

However, a non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

V

BILL NO. I OF 2017

A Bill to increase the minimum age of marriage for woman from eighteen years to twenty one years and to establish a National Population Stabilisation Authority to look into the schemes to encourage two-child norm and having on appropriate gap between children, incentivising adoption, creating recreational centres in villages, formulating policies wherein certain minimum criteria is present before a family can start having children and for all matters connected herewith and incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Population (Stabilisation) Act, 2017.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "annual report" means a report giving the details of developmental activities taken up over the year by the authority and detailing about targets set and achieved.

(b) "Authority" means the National Population Stabilisation Authority established under section 4;

(c) "prescribed" means prescribed by the rules made under this Act.

(d) "small family" means family having not more than two children.

3. Notwithstanding anything contained in any other law for the time being in force, the minimum age for marriage for woman shall be raised from eighteen year to twenty one year.

Minimum age of marriage for woman.

4. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be constituted, for the purposes of this Act, an Authority, to be known as the National Population Stabilisation Authority consisting of the following members, namely:—

Constitution of National Population Stabilisation Authority.

(a) Director General of Health Services, Ministry of Health and Family Welfare—*ex officio* Chairperson;

(b) Secretaries of the Union Ministries of Human Resource Development, Health and Family Welfare and Statistics and Programme Implementation—*ex officio* Members;

(c) Director, International Institute of Population Sciences—*ex officio* Member;

(d) Director, National Institute of Health and Family Welfare—*ex officio* Member;

(e) Senior Research Officer or equivalent officer of Population Research Centres, Ministry of Health and Family Welfare—*ex officio* Member;

(2) The Central Government shall appoint such number of officers and staff as it considers necessary for the functioning of the Authority.

(3) The salary, allowances and terms of conditions of services of officers and staff of the Authority shall be such, as may be prescribed.

5. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by the Central Government.

Meetings of the Authority.

(2) The expenditure incurred to attend meetings by the Members referred to in sub-clauses (a) to (e) of section 4, shall be borne by their concerned controlling authorities.

6. (1) the Authority shall discharge such functions as may be necessary to ensure stabilisation of population in the country and formulate a comprehensive policy within one year after its constitution under Sec. 4 (1) to achieve this objective.

Functions of the Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Authority shall include to:—

(a) undertake a baseline study to collect data about small families and to help arrive at a qualitative human dignity index which shall be completed within one year of setting up of the authority;

(b) recommend to the Central Government, a framework to regulate families to have children based on certain minimum standards fixed, including the human dignity index;

(c) formulate schemes to provide for subsidised health care, education upto college level for the first child and to the second child only if gap between children is greater than four years;

(d) provide for funds to help incentivise adoption of children;

(e) establish recreational centres at panchayat level to host traditional art forms and also use them as medium to disseminate messages regarding family planning;

(f) recommend to the Central Government penalties to those who do not follow the said policies framed by the authority;

(g) undertake, promote and publish studies relating to the Indian population and impact of developmental schemes on population stabilisation;

(h) frame syllabus for including awareness about family planning in school curriculum;

(i) provide for free contraceptives and other hormone tablets through the recreational centres;

(j) conduct awareness campaigns relating to medical procedures regarding birth control and strive to improve sterilisation rates among men, in particular; and

(k) undertake such other activities as may be prescribed by the Central Government.

(3) The Authority shall disseminate any necessary knowledge and information collected, to the respective departments of the State Governments.

Annual report and its laying before the Parliament.

7. (1) The Authority shall prepare once every year, as may be prescribed, an annual report giving the summary of its activities, including schemes it has undertaken and recommended to the Government during the previous year and it shall contain statements of annual accounts of the Authority.

(2) A copy of the report shall be forwarded to the Central Government, and the Central Government shall lay the report before each House of Parliament as soon as it is received.

Government to provide funds.

8. The Central Government shall from time to time provide, after due appropriation made by Parliament by law in this behalf, requisite funds for carrying out the purposes of this Act.

Power to remove difficulty.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the State Governments, may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of any difficulty.

Power to make rules.

10. The Central Government, in consultation with the State Governments, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

According to the last census of 2011, the population of our country stood at 121 crores. The Government estimates that it is approximately 127 crores in 2016 and by 2025 it will be 139 crores. The annual rate of growth has been about 2 per cent with a total fertility rate at 2.3 per cent. India spans 2.4 per cent of the land area of the world but contains 15 per cent of the world population. One fact to note is that more than 50 per cent of this population is within the reproductive age of 18—50. Expert reports suggest that the population in India will stabilize only around the year 2045. This growing population creates enormous stress on infrastructure and leads to rapid usage of natural resources. This population pressure leads to deterioration of the quality of basic human sustenance.

Our country has the largest number of under-nourished children and malnourished woman. We have one of the highest number of illiterate children in the world. The huge population is one of the main reasons which has led to such a pathetic scenario. The primary infrastructure needed for survival is crumbling fast. This problem of un-controlled growth in population has various socio-economic reasons. One major factor is that families in our country, mainly in the rural areas, equate more kids to safer livelihood. The poverty prevalent in large parts of our country, creates a situation where more children means more hands to go to work and earn for the household. Another contributing factor has been social practices like child marriage or marriage at an early age which leads to a scenario where the first pregnancy happens early. Some studies also point out the idle lifestyle among people in villages, as a causative reason for this. Even though medical science has shown rapid advancements, lack of awareness among the rural parts of our country has still kept large portions of our society in darkness.

This Bill proposes to increase the minimum age of marriage of woman from 18 years to 21 years. This will ensure that the woman is better informed and attains greater mental maturity before having her first child. Also, it is proposed in this Bill to constitute a National Population Stabilisation Authority consisting of Members from the concerned Ministries and expert bodies. This body will be responsible for stabilizing the population growth in the country. It will recommend measures wherein, a family will be allowed to have a child only when certain basic living conditions are present and if they are absent, this body will take measures to provide for the same. It will also bring in schemes to provide for subsidised health care and higher education along with assured job opportunities for the first child. The same will be applicable for the second child only if the gap between two children is greater than four years and will be discontinued if the family has more than two children. It will work to frame a policy providing for greater incentives to the girl child. The body shall organise greater awareness campaigns regarding medical science relating to contraceptives and surgical birth control procedures. It shall also help develop recreational centres in rural areas which will host traditional art forms to keep the community engaged and also use it as a mode of spreading the Government's message.

This Bill, by providing a comprehensive plan to help stabilise the population, will help to fill the long pending void for a legislation in the area of population control. Development in both the social and economic aspects of the people is the best solution to control population and the independent body established by this Bill, will aim to work towards this objective. This will result in higher standards of living for the citizens of the country, thereby creating greater quality of human capital which is much needed in India's journey to become a developed superpower.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the constitution of National Population Stabilisation Authority and also appointment of such number of officers and staffs for its functioning. Clause 8 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of this Bill. The Bill, therefore, if enacted, will involve recurring expenditure of rupees two thousand crore per annum from the Consolidated Fund of India. A non-recurring expenditure to the tune of rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make necessary rules for making rules, by notification in the official gazette for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. III OF 2017

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2017.

Short title.

2. After article 275 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
275A.

"275A. Notwithstanding anything in article 275, there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of West Bengal such capital and recurring sums as may be necessary to enable the State to meet the costs of such schemes of development as may be undertaken by it for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the Administration of the rest of the areas of that State:

Grants from
the Union to
the State of
West Bengal.

Provided that there shall be paid out of the Consolidated Fund of India a sum of rupees ninety thousand crore as one time grants-in-aid of the revenues of the State of West Bengal and a sum of rupees thirty thousand crore every year to that state:

Provided further that such grants-in-aid shall be in addition to the annual allocation made by the Finance Commission to the State of West Bengal and such other financial assistance as may be provided by the Government of India to that State:

Provided also that the grants-in-aid referred to in this article may be reviewed by the Government of India on the expiration of a period of five years from the commencement of this Act."

3. After article 371 of the Constitution, the following article shall be inserted, namely:—

"371K. Notwithstanding anything in this Constitution, the President may by order made with respect to the State of West Bengal, having regard to the requirements of the States as a whole for development, poverty, alleviation, employment opportunities and other welfare measures for the people of the State, provide for:—

(a) restructuring public debt of the State Government;

(b) implementation of long term schemes for the accelerated development of the State;

(c) an integrated scheme for drinking water supply and irrigation in the drought prone areas of the State;

(d) long term schemes for the development of infrastructure such as roads, highways, electricity, industries sanitation, health care and such other projects;

(e) adequate facilities for technical education, vocational training, equitable opportunities for employment in services under the control of the Government and in private sector;

(f) free housing facilities for the population lying below the poverty line;

(g) waiving off agricultural farmers' and plantation labourers, loan and educational loan taken by them for their wards;

(h) large proportion of fund allocation under any Central Governments, welfare and development schemes, in comparison to the other states.

Insertion of
new article
371K.

Special
Provision with
respect to the
State of West
Bengal.

STATEMENT OF OBJECTS AND REASONS

The fourth most populous state, West Bengal, located in East India, is strategically one of the most important states of the Indian Union. It is blessed ecologically and shares international borders with three neighbouring countries, namely Bangladesh, Nepal and Bhutan. Though the state's GDP has risen significantly since 1990 after economic liberalization, West Bengal is currently a debt-ridden state with Rs. 3 trillion as debt. This has become the biggest hindrance for the state's governance to undertake long-term ambitious developmental projects in scheduled areas and other poorer sections of the society. The proposed Bill aims to address all such hindrances through constitutional amendments so as to furnish adequate resources to the state, thereby helping it to craft better prospects for the marginalized sections of the society.

The above mentioned prevailing economic conditions have various detrimental effects on the holistic development of various tribal communities residing in the State. It has been a well known fact that a very small number in the tribal community have benefitted from the Centre's policies and programmes meant for their development. Of the total tribal population of 5.2 million in the State, more than 92% belong to rural areas. This raises the need for improving infrastructure with regard to roads, highways, electricity, sanitation, healthcare and other social development projects. Through this Bill, a new article 275A shall be inserted in the Constitution to provide for grants to the state of Bengal. This additional fund will help the state Government carry out the necessary developmental activities in the Scheduled Areas. Also, despite unprecedented economic progress within some parts of the State, it continues to suffer from holistic progress in social indicators, which encompass education, health and living conditions, as a whole. Thus, the State of West Bengal is in dire need of sustained financial assistance through provisional amendments in the Constitution. To address this, the Bill shall also insert a new article 371 K to provide for restructuring of the State's debt and other targeted allocation of funds from the Centre for schemes relating to the overall development of the State.

Though the State Government is optimally utilizing the available financial resources for holistic socio-economic growth, financial assistance from the Centre will help the State to come out of the debt trap easily. In a federal structure, the Central should take an active role in supporting States, as they are the ultimate drivers of India's growth story.

Hence this Bill.

VIVEK GUPTA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for grant-in-aid of the revenues of the State of West Bengal for development activities. It also provides for one time grant-in-aid to the tune of rupees ninety thousand crore and rupees thirty thousand crore as recurring annual expenditure. Clause 3 provides for special provision for the development of the State of West Bengal. The Bill, therefore, if enacted, will involve a recurring expenditure of rupees thirty thousand crore per annum from the Consolidated Fund of India.

A non-recurring expenditure of rupees ninety thousand crore is also likely to be involved.

VII**BILL NO. LXXII OF 2016**

A Bill to provide for adequate dwelling house to the families living below poverty line or falling under low income group in the country by providing one free of cost or at such reasonable cost and providing interest free loans to families in low income group for purchase of house and for matter connected therewith and incidental thereto.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India.

1. (1) This Act may be called the Right to Adequate Housing Act, 2016.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Short title,
extent and
commencement.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) “Committee” means Monitoring and Grievance Redressal Committee constituted under section 8.

(b) “dwelling house” means a house comprising of at least one living room, one bed room, one kitchen and one toilet with electricity, water and sanitation facilities.

(c) “fund” means House Building fund established under section 7.

(d) “families living below poverty line” means those families who are declared by the Central Government to be living below poverty line.

(e) “prescribed” means prescribed by rules made under this Act.

Central Government to provide dwelling house to families living below poverty line.

3. (1) The Central Government shall, within period of five years from the commencement of this Act, provide one free of cost, all-weather dwelling house to each family living below poverty line in the country:

Provided that while providing the dwelling house the Central Government shall take into account the number of members in the family.

(2) For the purposes of sub-section (1), the Central Government shall, in consultation with the concerned State Government cause to be notified a list of all families living below poverty line in each State and Union Territory in such manner as may be prescribed.

(3) The priority of allotting the dwelling house in a State or Union Territory shall be determined by draw of lot to be conducted in such manner as may be prescribed.

Central Government to provide dwelling house at fifty per cent of the cost.

4. (1) The Central Government shall, within a period of seven years from the commencement of this Act, provide dwelling house, at fifty per cent of the cost to each family, having an annual income of less than rupees five lakh:

Provided that while providing the dwelling home the Central Government shall take into account the number of members in the family.

(2) For the purpose of sub-section (1), the Central Government shall;

(i) in consultation with the State Government cause to be notified a list of all families having an annual income less than rupees five lakh in each State and Union Territory in such manner as may be prescribed.

(ii) provide interest free loans to the family to pay the cost of the house in such manner as may be prescribed.

(3) The priority of allotting the dwelling house in a State or Union Territory under this section shall be determined by the draw of lot to be conducted in such manner as may be prescribed.

Central Government to maintain the dwelling unit.

5. (1) The Central Government shall, after every four years, undertake the maintenance of the dwelling unit given under section 3 of the families living below poverty line and charge such nominal amount for the purpose as may be prescribed.

(2) The Central Government shall, after every four years, undertake the maintenance of the dwelling house given under section 4 of families whose annual income is less than rupees five lakh and charge fifty per cent of the maintenance cost.

Succession of dwelling unit.

6. The Central Government shall ensure that on the death of the head of a family living below poverty line or earning less than rupees five lakh annually, the title of the dwelling unit shall pass on to the spouse.

House Building fund for poor and below poverty line families.

7. (1) The Central Government shall, by notification in the Official Gazette, establish a fund to be known as the House Building Fund for poor and families living below poverty line for the purpose of this Act.

(2) There shall be paid into the fund,—

- (a) amounts received from the Central and the State Government as grant-in aid;
- (b) donations received from various sources; and
- (c) such other sums of money as may be prescribed.

(3) The Central and the State Governments shall contribute in the fund in such ratio as may be determined in each case.

8. (1) There shall be established a Monitoring and Grievance Redressal Committee to augment and make effective, the process of providing dwelling houses to the poor and families living below poverty line and redressal of their grievances.

Monitoring
and Grievance
Redressal
Committee.

(2) The Committee shall consist of,—

- (i) a retired judge of Supreme court—*Chairperson*
 - (ii) Secretary of the Ministry of Housing and Urban Poverty Alleviations, Central Government—*Member*
 - (iii) Two eminent persons having experience in working for poor and below poverty line families—*Members*
 - (iv) Four Secretaries of Housing Department, State Governments to be nominated on rotational basis—*Members*
- (3) The term and conditions of the Chairman and the members of the Committee shall be such as may be prescribed.
- (4) The salary and allowances of the non-governmental members of the Committee shall be such as may be prescribed.
- (5) The Ministry of Housing and Urban Poverty Alleviation shall provide secretarial assistance to the Committee.

9. The Committee shall,—

Functions of
the
Committee.

- (i) suggest ways to augment the process of providing housing to poor and families living below the poverty line;
- (ii) receive and redress grievances of the people in respect of their right to housing under this Act;
- (iii) suggest from time to time the specification that may be adopted while constructing the houses for poor and families living below the poverty line.
- (iv) perform such other functions as may be prescribed.

10. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such orders shall be made after expiry of the period of three years from the date of commencement of this Act.

11. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, providing homes to families living below poverty line and to families earning less than rupees five lakh per annum.

Act to have
effect in
addition to
other Acts.

12. The Central Government may, by notification in the official Gazette make rules to carry out the provisions of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

Housing forms an indispensable part of ensuring human dignity. Adequate housing encompasses more than just four walls of room and roof over one's head. Housing is essential for normal healthy living. It fulfills deep seated psychological needs for privacy and personal space; physical needs for security and protection from inclement weather. Article 25 of the Universal Declaration of Human Rights recognizes the right to housing as part of right to adequate standard of living. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) also guarantees the right to housing as part of the right to an adequate standard of living. Besides, the right to adequate housing is also recognized internationally in several other instruments that have focused on the need to protect rights of particular groups such as Convention on the Elimination for all forms of Discrimination Against Women (CEDAW), Convention on the Right of the Child (CRC) and the International Convention on Elimination of Racial Discrimination (CERD). India as party to international covenants has obligation to provide adequate housing to its citizens.

Supreme Court in various judgements such as *Olga Tellis Vs. Bombay Municipal Corporation* (1985) 3 SCC 545; *Shantistar Builders Vs. Narayan Khimalal Totame* (1990) 1 SCC 520; *Chameli Singh Vs. State of Up* (1996) 2 SCC 549; *PG Gupta Vs. State of Gujarat* (1995) Supp (2) SCC 182, *Ahmadabad Municipal Corporation Vs. Nawab Khan Gulab Khan and Others* (1997) 11 SCC 121, has elaborated on the right to adequate housing, shelter and livelihood being part of all encompassing right to life under article 21 of the Constitution. Increasing disparity in income has also led to the homelessness in our country. While some people live in palaces or big houses, some don't even have access to a shelter. The housing with its rising cost has become unaffordable. According to an estimate, there are around fifteen crore homeless people in India. These homeless people face vagaries of weather from chilling cold in winters to heat waves during summer. Many of these homeless people die every year. Most of these homeless persons are poor or live below the poverty line. Adequate housing is also necessary for protection of childhood as homeless child is invariably subjected to child abuse and crime. Still lakhs of persons particularly living below the poverty line or falling with in low income group are not having roof over their heads and living in sub-human conditions on pavements, *Bastis*, *Jhuggi-Jhopri* and unauthorised slums. It is the Government's obligation to guarantee that everyone can exercise this right to live in security, peace and dignity. Therefore, it is felt that the Government should provide at least one dwelling house to each family living below poverty line free of cost. Further, the persons falling within low income group should also be given one dwelling house at fifty percent of the cost of construction. Since, poor families cannot afford to pay a lump sum amount to purchase house. It also proposed that they should be given one time interest free loans for the purpose.

Hence this Bill.

SANJAY SETH

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the families living below poverty line shall be provided a dwelling unit free of cost. Clause 4 provides that families earning below rupees five lakh shall be given a dwelling unit at fifty percent of the cost. Clause 5 provides that Central Government shall also undertake the maintenance of these dwelling units. Clause 7 provides that Central Government shall also contribute to the House Building Fund. Clause 8 provides that there shall be a Monitoring and Grievance Redressal Committee. It is difficult to estimate the recurring Consolidated Fund of India expenditure that may be required from as the same will depend on the number of eligible persons for housing and the decision of the Central Government on the number of housing units to be constructed every year. However, a non-recurring cost of rupees one crore will be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of legislative powers is of normal character.

SHUMSHER K. SHERIFF,
Secretary-General.